

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:21-00087

MARK BOLLING

MEMORANDUM OPINION AND ORDER

Pending before the court is the motion of defendant for a continuance of trial and all related deadlines and for a finding of excludable time under the Speedy Trial Act. (ECF No. 57.) In support of defendant's motion, counsel for defendant explains that additional time is needed to conduct DNA testing on certain items of evidence. Such testing will require swabbing the evidence as well as obtaining a DNA sample from the individual(s) at issue, and then submitting the samples to a lab for testing. Defendant seeks a continuance of 60 days. The government does not oppose the motion.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and **GRANTS** defendant's motion to continue. In deciding to grant defendant's motion, the court considered the factors outlined in 18 U.S.C. § 3161(h)(7)(B) and finds that denying the motion "would deny counsel for the defendant . . . the reasonable time

necessary for effective preparation, taking into account the exercise of due diligence.” Id. § 3161(h)(7)(B)(iv).

Accordingly, the court hereby **ORDERS** as follows:

1. The deadline for the filing of pretrial motions is continued to **March 29, 2022;**
2. The Pretrial Motions Hearing is continued to **April 5, 2022,** at 2:30 p.m. in Charleston;
3. Jury Instructions and Proposed Voir Dire are due by **April 27, 2022;**
4. Trial of this action is continued to **May 4, 2022,** at 9:30 a.m. in Charleston; and
5. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to all counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

IT IS SO ORDERED this 24th day of January, 2022.

ENTER:

A handwritten signature in dark ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge